

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
Docket No. 2006-303-C**

APPLICATION OF PNG COMMUNICATIONS, INC. d/b/a     )  
POWERNET GLOBAL COMMUNICATIONS d/b/a     )  
CROSSCONNECT FOR A CERTIFICATE OF PUBLIC     )  
CONVENIENCE AND NECESSITY TO PROVIDE     )  
FACILITIES BASED LOCAL EXCHANGE     )  
TELECOMMUNICATIONS SERVICES AND FOR     )  
FLEXIBLE REGULATION OF ITS LOCAL EXCHANGE     )  
SERVICES AND ALTERNATIVE REGULATION OF     )  
ITS INTEREXCHANGE SERVICES     )

**TESTIMONY OF**

**Dennis Packer**

**General Counsel and Secretary**

**PNG Telecommunications, Inc. d/b/a PowerNet Global Communications**

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DUPLICATE, WITH THE EXCEPTION  
OF THE FORM OF THE SIGNATURE,  
OF THE E-FILED COPY SUBMITTED  
TO THE COMMISSION IN ACCORDANCE  
WITH ITS ELECTRONIC FILING INSTRUCTIONS***

1 Q. **PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS FOR THE**  
2 **RECORD.**

3 A. My name is Dennis Packer. I am General Counsel of PNG Telecommunications, Inc.  
4 My business address is 100 Commercial Drive, Fairfield, Ohio 45014. My telephone  
5 number is 513.645.4932.

6 Q. **WHAT ARE YOUR JOB RESPONSIBILITIES?**

7 A. I am responsible for overseeing the PNG's legal affairs including relationships with its  
8 vendors, agents, customers and strategic partners, general business and corporate matters  
9 and regulatory compliance.

10 Q. **PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND**  
11 **EXPERIENCE.**

12 A. I have more than twelve years experience in the telecommunications industry working  
13 with carriers to ensure regulatory compliance and also providing counsel concerning  
14 general business and commercial law issues in the telecommunications industry. Prior to  
15 joining PNG, I was in private practice serving the legal needs of telecommunications  
16 carriers. Prior to that, I was an associate at the Cincinnati firm of Brown, Cummins &  
17 Brown, specializing in business and commercial law. I hold a Bachelors of Science from  
18 the University of Michigan and a JD from the University of Cincinnati College of Law. I  
19 am admitted to practice before the Supreme Court of Ohio and the United States District  
20 Court for the Southern District of Ohio. I am also a member of the American Bar  
21 Association, the Federal Communications Bar Association and the Associate of  
22 Corporate Counsel.

23 Q. **ARE YOU FAMILIAR WITH THE APPLICATION YOUR COMPANY**

**SUBMITTED TO THIS COMMISSION?**

A. I am familiar with PNG's application. All statements in PNG's application are true and correct to the best of my knowledge, information and belief.

**WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to present evidence in support of PNG's Application for competitive local exchange and exchange access authority by demonstrating that PNG has the ability to provide reliable competitive local exchange telecommunications services in the State of South Carolina, and by demonstrating why the granting of a Certificate of Public Convenience and Necessity to PNG is in the public interest.

**IS YOUR COMPANY REGISTERED TO DO BUSINESS IN SOUTH CAROLINA?**

A. Yes. The South Carolina Secretary of State issued PNG a certificate of authority to transact business in South Carolina on April 30<sup>th</sup>, 1996.

**ARE YOU CERTIFIED TO PROVIDE INTEREXCHANGE SERVICES IN SOUTH CAROLINA?**

A. Yes. The Commission granted PNG a Certificate of Public Convenience and Necessity to provide interexchange telecommunications services on September 27, 1996 in Docket No. 96-145-C, Order No. 96-675.

**PLEASE DISCUSS THE MANAGERIAL ABILITY OF PNG TO PROVIDE TELECOMMUNICATIONS SERVICES IN SOUTH CAROLINA.**

A. PNG has the managerial and technical qualifications to provide local exchange telecommunications service in South Carolina. PNG's professional staff is eminently qualified to support PNG's telecommunications service offerings in each of their respective disciplines, through years of experience at PNG and elsewhere. A description of the telecommunications experience and expertise of PNG's senior managers is

1 attached to PNG's Application as Exhibit D. Each member of PNG's management team  
2 will draw upon his/her own experience, as well as the collective experience of the entire  
3 management team, to ensure that PNG is managed and operated efficiently and profitably  
4 in South Carolina, as it has in other states. PNG is currently a reseller of interexchange  
5 long distance telecommunication services in South Carolina.

6 **Q. DESCRIBE PNG'S FINANCIAL ABILITY TO OPERATE AS A**  
7 **TELECOMMUNICATIONS CARRIER.**

8 A. PNG's financial statements have been submitted to the PSC with its Application as  
9 Exhibit C. The Company's financial position clearly demonstrates PNG's ability to  
10 support its operations and serve the public in the State of South Carolina. PNG is cash  
11 flow positive. Nevertheless, PNG has a three million dollar line of credit facility with  
12 Fifth Third Bank in Cincinnati, Ohio should temporary funding be required. As a  
13 provider of local services utilizing commercial agreements and a reseller of local  
14 telecommunications services, PNG's liabilities to its underlying carriers are incurred  
15 upon the rendering of service. PNG does not plan to construct facilities. The Company,  
16 therefore, will require no additional capitalization or resource expenditure to expand its  
17 operations in South Carolina.

18 **Q. PLEASE DESCRIBE THE OPERATIONS OF THE COMPANY AND THE**  
19 **SERVICES IT PROPOSES TO OFFER IN SOUTH CAROLINA.**

20 A. PNG proposes to offer a variety of competitive local exchange services including basic  
21 service, custom calling features, data transmission services and intraLATA toll services,  
22 at rates and terms which are competitive with other local exchange carriers. PNG will  
23 also provide exchange access services to interconnecting carriers. PNG's goal is to  
24 provide customers with a comprehensive set of local telecommunications services at

attractive rates, to meet customers' calling needs. More specific information regarding PNG's proposed services may be found in PNG's proposed tariff, attached as Exhibit E to the Application.

**Q. HAS THE COMPANY EXECUTED A STIPULATION WITH THE SOUTH CAROLINA TELEPHONE COALITION?**

A. Yes. PNG has executed the stipulation with the South Carolina Telephone Coalition. The stipulation was filed with the Commission on November 17, 2006. We request that the Commission approve the stipulation.

**Q. WHAT FACILITIES WILL PNG USE TO PROVIDE ITS PROPOSED LOCAL TELECOMMUNICATIONS SERVICES?**

A. Applicant proposes to provide facilities-based local exchange services using Unbundled Network Elements leased under commercially negotiated agreements with underlying incumbent carriers. Applicant may further resell the local exchange services of other South Carolina certificated local exchange carriers.

**Q. DOES YOUR COMPANY OWN ANY NETWORK SWITCHES OR TRANSMISSION FACILITIES?**

A. Applicant does not maintain any of its own facilities. PNG maintains a limited network of soft switches that the company utilizes in the least cost routing of long distance calls. PNG has no facilities that are used in the provision of local exchange services.

**Q. HAS YOUR COMPANY BEGUN NEGOTIATIONS WITH INCUMBENT LECS IN SOUTH CAROLINA?**

A. PNG is currently negotiating interconnection agreements with BellSouth.

**Q. HOW WILL PNG BILL FOR ITS SERVICES?**

A. PNG will bill customers directly. PNG will rate the call records and render a bill

statement for the customer. If the customer is also subscribed to PNG's long distance or Internet services, all services will be billed on the same invoice in separate sections. PNG will bill once per month. The format of all bills will comply with the Commissions rules on customer billing.

**Q. DOES THE COMPANY OFFER A DEBIT OR PREPAID CALLING CARD?**

A. PNG does not sell debit or prepaid calling cards.

**Q. HOW WILL PNG MARKET ITS SERVICES?**

A. PNG markets its services through independent agents.

**Q. DOES PNG USE TELEMARKETING AS A METHOD FOR SELLING ITS SERVICES?**

A. PNG does not intend to telemarket its services in South Carolina at this time. Should PNG conduct telemarketing in South Carolina at any time in the future, PNG will observe and follow all PSC and other South Carolina regulations concerning telemarketing and provide a sample copy of the telemarketing script to the Commission.

**Q. HOW ARE CUSTOMER INQUIRIES/DISPUTES HANDLED?**

A. PNG provides live customer support twenty-four hours a day, seven days a week. If a service or billing complaint cannot be handled by a customer service representative at the time of the customer's call, a representative will contact the customer by the end of the next business day. PNG will classify all repair complaints it receives as either "service affecting" or "service interrupting." To the extent possible based on the incumbent LEC's capability, PNG will arrange to have all service interrupting problems cleared within 24 hours from the time PNG receives the complaint and all "service affecting" problems cleared within 72 hours.

**Q. WHO IS THE CONTACT PERSON AT THE COMPANY THAT THE**

**COMMISSION OR OFFICE OF REGULATORY STAFF SHOULD CONTACT  
REGARDING CUSTOMER COMPLAINTS OR REGULATORY ISSUES?**

A. Robert Johnson is responsible for handling customer complaints and he can be contacted at [rjohnson@pngmail.com](mailto:rjohnson@pngmail.com) or 513-645-4816. Kate Storch is responsible for answering regulatory questions and she can be contacted at [kstorch@pngmail.com](mailto:kstorch@pngmail.com) or 513-645-4942.

**Q. IN WHAT OTHER STATES HAS PNG RECEIVED AUTHORITY TO PROVIDE  
SERVICES?**

A. Applicant is authorized to provide competitive local exchange telecommunications services in the states of California, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Nevada, North Carolina, Ohio, Pennsylvania, Texas, Virginia, Washington, and Wisconsin. PNG further maintains interexchange authority in every state.

**Q. WHERE DOES PNG CURRENTLY HAVE APPLICATIONS PENDING TO  
PROVIDE SERVICES?**

A. PNG currently has applications pending in Alabama, Arizona and Tennessee.

**Q. HAS PNG EVER BEEN DENIED CERTIFICATION IN ANOTHER STATE?**

A. No. PNG has never been denied certification in another state.

**Q. HAS PNG EVER BEEN SUBJECT TO ANY FEDERAL OR STATE  
INVESTIGATION REGARDING ITS SERVICES?**

A. No. PNG has never been subject o investigation regarding its services.

**Q. WHY IS THE COMPANY SEEKING EXEMPTIONS FROM ANY RULES  
REQUIRING THAT ITS BOOKS BE KEPT IN CONFORMANCE WITH THE  
UNIFORM SYSTEM OF ACCOUNTS?**

A. Applicant requests that it be exempt from any financial recording rules or regulations that require a carrier to maintain its financial records in conformance with the Uniform

1 System of Accounts ("USOA"). As a competitive provider, Applicant currently maintains  
2 its books and records in accordance with Generally Accepted Accounting Principles  
3 ("GAAP"). GAAP is used extensively by interexchange carriers. Since Applicant utilizes  
4 GAAP, the Commission will have a reliable method by which to evaluate Applicant's  
5 operations. Therefore, Applicant requests to be exempt from any and all USOA  
6 requirements of the Commission.

7 Q. **WHY ARE YOU SEEKING A WAIVER OF THE REQUIREMENT THAT YOUR**  
8 **BOOKS AND RECORDS BE KEPT IN SOUTH CAROLINA PURUSANT TO 26**  
9 **REGS. 103-610?**

10 A. Applicant requests a waiver of S.C. Reg. 103-610, and to be allowed to maintain its  
11 books and records at its headquarters location in Fairfield, Ohio. In the event that the  
12 Commission finds it necessary to review Applicant's books, this information will be  
13 provided upon request to the Commission or Applicant will bear the expense of travel for  
14 the Commission staff to examine the books and records located outside of South  
15 Carolina.

16 Q. **WHY ARE YOU SEEKING A WAIVER OF THE REQUIREMENT THAT YOU**  
17 **PUBLISH A LOCAL EXCHANGE DIRECTORY?**

18 A. Applicant requests that it not be required to publish local exchange directories. Applicant  
19 will make arrangements with the incumbent LECs whereby the names of Applicant's  
20 Customers will be included in the directories published by the incumbent LECs. These  
21 directories will be distributed to Applicant's Customers. This approach is entirely  
22 reasonable and will have a direct benefit to the customers of both Applicant and the  
23 incumbent LECs since customers will have to refer to only one directory for a universal  
24 listing of customer information. It would be an unnecessary burden on the Applicant to  
25 require that it publish and distribute its own directory to all customers located within each  
26 exchange area, particularly since nearly all of these customers will be customers of the  
27 incumbent LECs. It is more efficient for Applicant to simply include its Customer list in  
28 the existing directories of the incumbent LECs.



1 Q. **IN YOUR OPINION, WOULD THE ISSUANCE OF A CERTIFICATE TO PNG**  
2 **BE IN THE PUBLIC INTEREST?**

3 A. PNG's proposed services will allow customers to obtain very competitive services and  
4 rates. Customers will benefit from PNG's industry experience and innovative service  
5 offerings and billing options. Additionally, an increase in the traffic generated through  
6 the provision of the Company's proposed intrastate services over existing facilities will  
7 help improve the efficiency of those facilities and reduce the underlying carriers' costs in  
8 provisioning such services. I believe that PNG will operate as the very type of  
9 responsible, solid local and interexchange carrier that the PSC wishes to enter the State of  
10 South Carolina.

11 Q. **WILL GRANTING YOUR APPLICATION ADVERSELY IMPACT THE**  
12 **AVAILABILITY OF AFFORDABLE LOCAL EXCHANGE SERVICE?**

13 A. Applicant's entry into the local market will not adversely impact the availability of  
14 affordable local exchange service. Incumbent LEC's are presently serving nearly all of  
15 the local exchange customers in South Carolina. The history of telecommunications  
16 competition has demonstrated that as new entrants improved the price performance of  
17 service, consumers benefited from a wider choice of service and options. The resulting  
18 reduced rates that competitive pressures brought to the market stimulated demand,  
19 resulting in growing revenues for both new entrants and established firms. Applicant  
20 expects that this same phenomena to affect local service over time, thus creating a larger  
21 market for all carriers. Therefore, the approval of Applicant's application is clearly in the  
22 public interest.

23 Q. **WILL YOUR COMPANY SUPPORT UNIVERSALLY AVAILABLE**  
24 **TELEPHONE SERVICE AT AFFORDABLE RATES AS REQUIRED BY THE**  
25 **COMMISSION?**

26 A. Yes, PNG will support universally available telephone service as required by the  
27 Commission.

1 Q. **WILL THE SERVICE YOUR COMPANY INTENDS TO PROVIDE MEET THE**  
2 **SERVICE STANDARDS OF THE COMMISSION?**

3 A. Yes, PNG's service will meet the service standards of the Commission.

4 Q. **IS PNG REQUESTING RELAXED REGULATORY TREATMENT?**

5 A. Yes. We will be a non-dominant, competitive provider of local exchange  
6 telecommunications services. Therefore, we request that the Commission regulate our  
7 company in the same relaxed fashion authorized in Order No. 98-165 in Docket No. 97-  
8 467-C and extended to other similarly situated carriers. We understand that this flexible  
9 regulatory treatment requires that we file maximum rates for our service offerings. Local  
10 tariff filings would be presumed valid once they are filed subject to the Commission's  
11 right to investigate the filing within thirty days.

12 Q. **HAS PNG REQUESTED ALTERNATIVE REGULATION OF ITS LONG**  
13 **DISTANCE BUSINESS SERVICE, CONSUMER CARD AND OPERATOR**  
14 **SERVICE OFFERINGS?**

15 A. We request that all of its long distance business services be regulated pursuant to the  
16 procedures described and set out in Docket No. 95-661-C and as modified by Order No.  
17 2001-997-C in docket No. 2000-407-C. It is the Applicant's intent by this request to have  
18 these services regulated in the same manner as this Commission has permitted for by  
19 AT&T Communications of the Southern States. Specifically, we request:

- 20 (a) removal of maximum rate tariff requirements for its business services, consumer  
21 card, operator service, and future private line, and customer network-type offerings;  
22 (b) that tariff filings for these uncapped offerings are presumed valid upon filing. If the  
23 Commission institutes an investigation of a particular filing within seven days, the  
24 tariff filing will be suspended until further order of the Commission; and  
25 (c) any relaxation in the reporting requirements that may be adopted for AT&T shall  
26 apply to *Company* also.

27 We understand that the alternative regulation orders were modified by Order No. 2001-  
28 997 so that rate caps for operator-assisted calls where a consumer uses a local exchange

1 carrier's calling card to complete calls from locations which have not selected that local  
2 exchange carrier as their toll provider. The order imposed a maximum cap of \$1.75 for  
3 operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-  
4 minute rate associated with these calls.

5 |  
6 Q. **DOES THIS CONCLUDE YOUR TESTIMONY?**

7 A. Yes.

# VERIFICATION

Dennis Packer being first duly sworn on oath, deposes and states that he is General Counsel and Secretary of PNG Communications, Inc. and that he has read the above and foregoing testimony and knows the contents thereof, and that the same are true to the best of his knowledge, information, and belief.

PNG Communications, Inc.

By: \_\_\_\_\_

Dennis Packer

Its: General Counsel & Secretary

Subscribed and sworn to before me this  
29<sup>th</sup> Day of November, 2006.

Robert A. Johnson, Jr.  
Notary Public for  
My Commission Expires:

**ROBERT A. JOHNSON, JR.**  
**NOTARY PUBLIC, STATE OF OHIO**  
**MY COMMISSION EXPIRES 05-19-10**



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ITS INTEREXCHANGE SERVICES )


**CERTIFICATE OF SERVICE**

This is to certify that I, Vickie V. Pietschker, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Testimony of Dennis Packer** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
P.O. Box 11390  
Columbia, SC 29211

Wendy B. Cartledge, Esquire  
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1441 Main Street, Suite 300  
Columbia, SC 29201

Dated at Columbia, South Carolina this 4th day of December, 2006.

  
Vickie V. Pietschker